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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,756	03/08/2004	Adrian P. Stephens	42P18412	4365
7590	10/10/2006		EXAMINER	
Blakely, Sokoloff, Taylor & Zafman LLP 7th Floor 12400 Wilshire Boulevard Los Angeles, CA 90025			YOUNG, JANELLE N	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/796,756	STEPHENS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Janelle N. Young	2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 08 March 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 08 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. The abstract of the disclosure is objected to because the abstract is fewer than 50 words. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Derryberry et al. (US Patent 6498785).

As to claim 1, Derryberry et al. teaches a method, comprising:

transmitting data at a first and/or second transmit power level (Abstract; Col. 4, line 17-Col. 5, line 21; Col. 6, lines 10-29; and Col. 11, lines 6-24);

determining a first and/or second value for a network traffic parameter at the first transmit power level (Col. 2, line 26-Col. 3, line 4; Col. 5, line 48-Col. 6, line 9; and Col. 8, line 47-Col. 9, line 9);

determining a second transmit power level different than the first transmit power level (Abstract; Col. 4, line 30-Col. 5, line 21; Col. 7, lines 21-55; Col. 8, line 47-Col. 9, line 9; Col. 9, line 56-Col. 10, line 15; and Col. 11, lines 6-24);

As to claim 2, Derryberry et al. teaches a method, wherein said determining a first value comprises determining a first throughput value and said determining a second value comprises determining a second throughput value (Col. 2, line 26-Col. 3, line 24; Col. 6, line 42-Col. 7, line 55; and Col. 8, line 9-Col. 9, line 9).

As to claims 3-4, Derryberry et al. teaches a method, further comprising subsequently transmitting data at the second transmit power level responsive to one of the following two-part conditions:

the second transmit power level being less than the first transmit power level and the second throughput value being and/or not being approximately equal to the first throughput value (Col. 9, line 56-Col. 10, line 50); and

the second transmit power level being greater than the first transmit power level and the second throughput value being and/or not being greater than the first throughput value (Col. 4, line 30-Col. 5, line 21 and Col. 9, line 56-Col. 10, line 50).

As to claim 5, Derryberry et al. teaches a method, wherein said determining a first value comprises determining a first network loading value and said determining a second value comprises determining a second network loading value (Col. 2, lines 18-24; Col. 3, lines 13-24; Col. 4, line 30-Col. 5, line 21).

As to claims 6-7, Derryberry et al. teaches a method, wherein said determining a second transmit power level comprises determining a second transmit power level less than and/or greater than the first transmit power level responsive to the first network loading value being less than and/or greater than a target value (Col. 4, line 30-Col. 5, line 21; Col. 8, line 47-Col. 9, line 22; and Col. 9, line 56-Col. 10, line 50).

As to claim 8, Derryberry et al. teaches an article, comprising a machine-readable medium that provides instructions, which when executed by a computing platform, cause said computing platform to perform operations comprising:

transmitting data at a first transmit power level (Abstract; Col. 4, line 17-Col. 5, line 21; Col. 6, lines 10-29; and Col. 11, lines 6-24);

determining a first data throughput value based on transmissions at the first transmit power level and determining a second data throughput value based on transmissions at the second transmit power level (Col. 2, line 26-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; Col. 6, line 42-Col. 7, line 55; and Col. 8, line 9-Col. 9, line 9);

transmitting data at a second transmit power level different than the first transmit power level (Abstract; Col. 4, line 30-Col. 5, line 21; Col. 7, lines 21-55;

Col. 8, line 47-Col. 9, line 9; Col. 9, line 56-Col. 10, line 15; and Col. 11, lines 6-24); and

setting a subsequent transmit power level at one of the first transmit power level and the second transmit power level, based on a comparison between the first and second data throughput values (Col. 1, line 53-Col. 2, line 24; Col. 4, line 30-Col. 5, line 21; Col. 9, line 54-Col. 10, line 38).

Regarding claim 9, see explanation as set forth regarding claim 3 (method claim) because the claimed article for adaptive transmit power control in wireless devices would perform the method steps

Regarding claim 10, see explanation as set forth regarding claim 4 (method claim) because the claimed article for adaptive transmit power control in wireless devices would perform the method steps

As to claim 11, Derryberry et al. teaches an article, wherein the first and second transmit power levels are each less than a predefined maximum transmit power level and greater than a predefined minimum transmit power level.

As to claim 12, Derryberry et al. teaches an article comprising a machine-readable medium that provides instructions, which when executed by a computing platform, cause said computing platform to perform operations comprising:

setting a first transmit power level (Abstract; Col. 4, lines 17-29; Col. 7, lines 21-55; and Col. 10, line 35-50);

transmitting data at the first transmit power level (Abstract; Col. 4, line 17-Col. 5, line 21; Col. 6, lines 10-29; and Col. 11, lines 6-24);

determining a first network loading value based on data transmitted at the first transmit power level (Col. 2, lines 18-24; Col. 3, lines 13-24; Col. 4, line 30-Col. 5, line 21);

comparing the network loading value with a predefined range of network loading values (Col. 4, line 30-Col. 5, line 21 and Col. 9, line 56-Col. 10, line 28); and

changing the transmit power level for a subsequent transmission of data based on a result of said comparing (Abstract; Col. 4, lines 3-14; Col. 6, lines 30-41; Col. 9, line 56-Col. 10, line 28; and Col. 10, line 35-Col. 11, line 5).

As to claim 13, Derryberry et al. teaches an article, wherein said changing comprises decreasing the transmit power level for the subsequent transmission responsive to the network loading value being less than a minimum value in the predefined range (Col. 2, line 17-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; and Col. 10, lines 35-50).

As to claim 14, Derryberry et al. teaches an article, wherein said changing comprises increasing the transmit power level for the subsequent transmission responsive to the network loading value being greater than a maximum value in the predefined range (Col. 2, line 17-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; Col. 10, lines 35-50; and Col. 11, lines 6-24).

As to claim 15, Derryberry et al. teaches an article, wherein said changing comprises one of:

increasing the transmit power level for the subsequent transmission responsive to the network loading value being greater than a predefined value (Col. 2, line 17-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; and Col. 10, lines 35-50); and

decreasing the transmit power level for the subsequent transmission responsive to the network loading value being less than the predefined value (Col. 2, line 17-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; Col. 10, lines 35-50; and Col. 11, lines 6-24).

Regarding claim 16, see explanation as set forth regarding claim 1 (method claim) because the claimed apparatus for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 17, see explanation as set forth regarding claim 3 (method claim) because the claimed apparatus for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 18, see explanation as set forth regarding claim 4 (method claim) because the claimed apparatus for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 19, see explanation as set forth regarding claim 6 (method claim) because the claimed apparatus for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 20, see explanation as set forth regarding claim 7 (method claim) because the claimed apparatus for adaptive transmit power control in wireless devices would perform the method steps.

As to claim 21, Derryberry et al. teaches an apparatus, wherein the first predetermined value is a minimum value in a predetermined range of values and the second predetermined value is a maximum in the predetermined range of values (Col. 2, line 17-Col. 3, line 24; Col. 4, line 30-Col. 5, line 21; and Col. 9, line 56-Col. 10, line 28).

Regarding claim 22, see explanation as set forth regarding claim 1 (method claim) because the claimed system for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 23, see explanation as set forth regarding claim 3 (method claim) because the claimed system for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 24, see explanation as set forth regarding claim 4 (method claim) because the claimed system for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 25, see explanation as set forth regarding claim 6 (method claim) because the claimed system for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 26, see explanation as set forth regarding claim 7 (method claim) because the claimed system for adaptive transmit power control in wireless devices would perform the method steps.

Regarding claim 27, see explanation as set forth regarding claim 11 (article claim) because the claimed system for adaptive transmit power control in wireless devices would perform the article steps.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY  
September 29, 2006

 10/02/06

QUOCHIEN B. VUONG  
PRIMARY EXAMINER